

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 16590
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On January 11, 2002, the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing Idaho individual income tax, penalty, and interest in the amount of \$6,454 for the taxable year 1997.

The taxpayers filed a timely protest and petition for redetermination. They did not request a conference. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The Bureau determined the taxpayers sold a piece of Idaho real estate during 1997 but did not file an Idaho income tax return to report the income. The Bureau sent the taxpayers a letter that explained the Idaho income tax filing requirements for nonresidents. The Bureau asked the taxpayers to provide the details of the sale. That letter was returned with a note on the envelope, "no [Redacted] here." The Bureau verified the address through the post office and sent a second letter. Again, no response was received.

Idaho Code § 63-3045 describes the process when a deficiency is determined:

**63-3045. Notice of redetermination or deficiency -- Interest.**

(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an

explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

The Bureau issued a Notice of Deficiency Determination to the taxpayers. [Redacted] signed for the certified letter. In a letter dated March 3, 2002, [Redacted] petitioned for a redetermination. He said: "Do [sic] to the fact that this property was a loss of money to us, we fill [sic] that we owe no tax." He went on to state the purchase price of the land, the cost of the house they built on the land, and the final amount of the sale[Redacted] signed the letter.

The Bureau wrote back to the taxpayers acknowledging their protest and asking them to furnish any documentation they would like the Tax Commission to consider. When the taxpayers did not respond, their file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayers did not acknowledge receiving a letter from the Tax Appeals Specialist wherein their right to request a hearing or submit additional information was explained.

Idaho Code § 63-3026A directs the determination of tax on income received by a nonresident of Idaho as follows:

**63-3026A. Computing Idaho taxable income of part-year or nonresident individuals, trusts and estates. (1) For nonresident individuals,** trusts, or estates **the term "Idaho taxable income" includes only those components of Idaho taxable income as computed for a resident which are derived from or related to sources within Idaho.** This is to be computed without the deductions for either the standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

(2) For part-year resident individuals, trusts or estates the term "Idaho taxable income" includes the total of: (a) Idaho taxable income as computed for a resident for the portion of the tax period during which a taxpayer is domiciled in or is residing in Idaho, plus (b) those components of Idaho taxable income which are derived from or related to sources within Idaho for that portion of the tax period during which a taxpayer is not domiciled in and is not residing in Idaho. This is to be computed without the deductions for either the

standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

(3) For the purposes of subsections (1) and (2) of this section:

(a) **Income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from:**

(i) Any business, trade, profession or occupation conducted or carried on in this state, including the distributive share of partnership income and deductions, and the pro rata share of S corporation income and deductions;

(ii) **The ownership or disposition of any interest in real or tangible personal property located in this state;**

(Emphasis added.)

The taxpayers do not deny they sold Idaho property in 1997. Clearly, Idaho Code § 63-3026A includes income from the sale of Idaho real estate as Idaho taxable income. Although the taxpayers were given ample opportunity, they have furnished nothing to suggest the sales price was not entirely Idaho taxable income. The Tax Commission is left with little choice in determining the taxpayers' Idaho income for 1997.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of their argument, the taxpayers have failed to meet their burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The deficiency notice was addressed to [Redacted]. However, all other information in the notice such as the social security number and address identified [Redacted] as the person being addressed. The Tax Commission finds the error to be a clerical error with no consequence.

WHEREFORE, the Notice of Deficiency Determination dated January 11, 2002, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest for 1997.

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$4,165	\$1,041	\$1,377	\$6,583

Interest is compute through August 15, 2002.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

---

COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.[Redacted]

[REDACTED]

---

ADMINISTRATIVE ASSISTANT 1